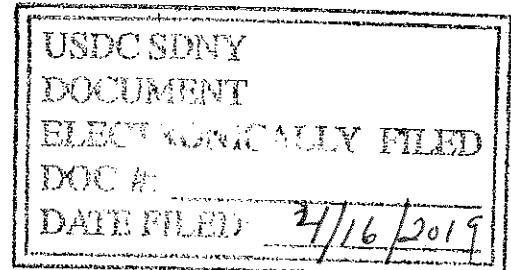


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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 UNITED STATES OF AMERICA, : 18Cr41 (DLC)
 :
 -v- :
 : ORDER
 :
 DEANDRE MORRISON, :
 :
 Defendant. :
 :
 -----X
 DENISE COTE, District Judge:



On April 5, 2019, defendant Deandre Morrison moved to suppress his identification in a lineup in 2011 as the assailant in a shooting that had occurred nine days earlier. He also moves to suppress any in-court identification by the witness ("Witness") who made the lineup identification and seeks a hearing. Morrison's requests for a hearing, to suppress evidence of the lineup identification, and to preclude an in-court identification by the Witness are denied.

The Witness was with the victim of the shooting when the shooting occurred. He later gave a verbal description of the shooter to the police and sent the police a Facebook picture of the shooter. The picture is a picture of Morrison. The police invited the Witness to the precinct to view a lineup. At the lineup, the Witness identified Morrison as the shooter.

Morrison was indicted for murder by a state grand jury and tried in state court. Before the trial, a suppression hearing

was held. The state court judge denied the motion to suppress the lineup identification. At trial, the Witness identified Morrison as the shooter. Morrison was acquitted of the murder.

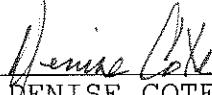
The defendant has not shown that the police engaged in any misconduct in connection with the Witness generally or with respect to the lineup. While they emphasize that four of the six participants in the lineup were a few years older than Morrison, one participant was a year younger. All looked like they were in roughly the same age range. All of the participants were seated and wore identical hats. Therefore, differences in height and hair style were eliminated as factors that could affect the reliability of the identification. There is no basis to find that the police engaged in any behavior that suggested to the Witness who he should identify in the lineup.

The defendant emphasizes that the Witness viewed a photograph of Morrison before he saw the lineup. But the police did not show the Witness the photograph; it was the Witness who supplied to picture to the police.

Finally, the Witness testified at the state trial and was cross-examined about the reliability of the identification. Nothing from that testimony suggests that he did not then and cannot now give a reliable identification. He had a good, although brief, opportunity to view the shooter.

Finally, the defendant has not pointed to any disputed issue of fact that requires a hearing. A request for a hearing is properly denied without such a showing.

Dated: New York, New York
April 16, 2019


DENISE COTE
United States District Judge